

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Cr. No. 07-CR-00417 (RHK/SRN)
Civ. No. 09-CV-3155 (RHK)

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| UNITED STATES OF AMERICA, |) | |
| |) | ORDER FOR DISCOVERY AND |
| Plaintiff-Respondent, |) | REQUIRING TRIAL DEFENSE |
| |) | COUNSEL AND DEFENSE |
| |) | INVESTIGATOR TO PREPARE |
| v. |) | AFFIDAVITS IN RESPONSE TO |
| |) | ALLEGATIONS OF INEFFECTIVE |
| |) | ASSISTANCE OF COUNSEL |
| ELDON PHILIP ANDERSON, |) | |
| |) | |
| Defendant-Movant. |) | |

On October 12, 2010, defendant Anderson filed motions under Rules 6 and 7 of the Rules Governing Section 2255 Proceedings for the United States District Courts, seeking discovery and to expand the record related to defendant's claim that he received ineffectiveness of counsel related to the advice of counsel defense. On October 18, 2010, the government filed a response not opposing the defendant's motions, and also seeking discovery of communications and records from trial defense counsel and the defense investigator related to their investigation of the advice of counsel defense and their advice to the defendant about the defense. The government also moved this Court to order trial defense counsel and the defense investigator to cooperate with the government and provide pre-hearing affidavits related to the advice of counsel defense.

Defendant Anderson, by filing a motion claiming ineffective assistance of counsel, has waived his attorney-client and attorney

work product privileges for matters related to that claim. Tasby v. United States, 504 F.2d 332, 336 (8th Cir. 1975).

Defendant Anderson's and the Government's Motions for Discovery and to Expand the Record are GRANTED. Furthermore, trial defense counsel, Lyonel Norris and defense investigator Michael Kaulfus are ORDERED to cooperate with the government by submitting to questioning and to prepare pre-hearing affidavits concerning their investigation of communications with the defendant related to the advice of counsel defense only.

Dated: October 22, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge